



DEBENTURES ORDINANCE, No. 34 OF 1924.

Herbert Samuel

GOVERNMENT OF PALESTINE.

An Ordinance to regulate the issue of Debentures and the creation of Mortgages by Companies and Cooperative Societies.

No. 34 of 1924.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof,

1. This Ordinance may be cited as the Debentures Short Title. Ordinance 1924.

2. (1) For the purpose of this Ordinance the term debenture shall mean a written instrument issued by a Company or a Cooperative Society by way of security for money providing for the payment of a specific sum at a fixed date or upon a contingency with or without interest.

Definition of
Debenture, Series
of Debentures
and Registrar.

(2) Debentures are said to be issued in a series when two or more debentures are intended to rank equally in respect of the security provided for the payment.

(3) In this Ordinance and in the Sections of the Companies Ordinance 1921 hereinafter declared applicable to Cooperative Societies, the term Registrar shall in its application to Cooperative Societies be interpreted to refer to the Registrar of Cooperative Societies, and in its application to Limited Companies to refer to the Registrar of Companies.

3. Every Company registered under the Companies Ordinance 1921 and having power to borrow money for the purpose of its business and every Cooperative Society registered under the Cooperative Societies Ordinance 1920 shall be entitled, subject to any limitations or restrictions contained in the Memorandum or Articles of Association or Rules thereof

Power to issue
Debentures.

(a) to mortgage or charge its property by way of security for money in any manner allowed by law;

(b) to borrow money by the issue of debentures or of a series of debentures:

Provided that Companies registered without the word "Limited" as part of their name in pursuance of Section 22 of the Companies Ordinance 1921 shall not have power to issue debentures unless expressly empowered so to do by the licence granted by the High Commissioner.

Issue of Series
of Debentures.

4. (1) Debentures issued in a series shall be secured either by a mortgage of specified immovable property belonging to the Company or Society or by a floating charge upon the property and assets of the undertaking as defined by Section 91 of the Companies (Winding-Up) Ordinance 1922, or by both of such methods.

(2) Where a series of debentures is secured by a mortgage of specified immovable property only, there shall be filed with the Registrar prior to the issue of the debentures a certificate of value signed by two registered land valuers; and the sum total of the capital of the debentures issued on the security of the property shall not exceed two-thirds of the value so certified.

(3) Where a series of debentures is secured by a mortgage of or charge upon specified property a deed shall be executed whereby the property on which the issue is secured is mortgaged to or charged in the hands of the trustees on behalf of debenture holders and such deed shall state the events and contingencies on the happening of which the security shall be enforceable.

(4) A statement as to the security provided for a series of debentures and the conditions of its enforcement shall be endorsed upon each debenture of the series.

(5) More than one series of debentures may be issued in respect of the same property.

(6) Notwithstanding the provisions of this Section the President of a District Court, upon application made to him, with leave of the Registrar, by the Company or Society, may authorise the issue of a series of debentures upon any terms as to the security thereof deemed by him to be adequate for the protection of debenture holders;

Provided that authorisation shall in no case be given for the issue of debentures in a series on the security of a mortgage of specified immovable property to an amount exceeding two-thirds of the certified value of the property.

Registration of
floating charges.

5. (1) Where a series of debentures is secured by a floating charge such charge shall notwithstanding that it is not registered in the Land Registry be enforceable against the immovable property of the Company or Society.

(2) Nothing in this Ordinance shall be construed to confer upon the holder of a debenture secured by a floating

charge any right of preference or priority in respect of such charge to the detriment of any registered mortgage or purchase for value of immovable property of the Company or Society, notwithstanding that the existence of the charge was known to the mortgagee or purchaser at the time of the creation of the mortgage or of the sale.

6. The fees payable to the Land Registry upon the registration of a mortgage of specified immovable property to secure a series of debentures shall not exceed those which would be chargeable in respect of the mortgage of such property to secure a loan equal to two-thirds of its value as certified by a certificate of two registered land valuers.

Fees at Land Registry on registration of mortgage to secure debenture.

7. A single debenture may be secured upon such security as may be agreed upon between the parties and approved by the Registrar but shall not be secured by a floating charge.

Form of single debentures.

8. (1) Every Company and Cooperative Society shall keep a Register of Mortgages and enter therein all mortgages and charges specifically affecting property of the Company or Society giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and (except in the case of debentures to bearer) the names of the mortgagees or persons entitled thereto.

Register of Mortgages.

(2) Every Register kept under this Section shall be open at all reasonable times to the inspection of any creditor or member of the Company or Society without fee and shall also be open to the inspection of any other person on payment of a fee of PT. 5. Any officer of the Company or Society refusing permission to inspect shall be liable to a fine of £E. 5.

9. (1) Debentures in a series may be issued payable to the registered holders or to Order or to Bearer.

Debentures to Bearer.

(2) Debentures to holder or to bearer issued by a Company registered under the Companies Ordinance 1921 at any time since the date at which that Ordinance came into force, shall be deemed valid, notwithstanding that the names of the debenture holders have not been or are not registered in the Register of Debentures kept under Section 67 of the said Ordinance or any enactment substituted therefor.

10. (1) Sections 66, 68 and 69 of the Companies Ordinance 1921, shall apply to debentures issued by a Cooperative Society and to mortgages and charges created by a Cooperative Society as well as to those issued or created by a Company.

Application of Sections 66, 68, 69 of Companies Ordinance to Cooperative Societies.

(2) Upon registration of any instrument creating a mortgage or charge a copy thereof shall be lodged with the Registrar for filing.

(3) The Registrar shall keep a chronological index in the prescribed form and with the prescribed particulars of the mortgages or charges registered with him.

(4) It shall be the duty of the Company or Society to send to the Registrar for registration the particulars of every mortgage or charge created by the Company or Society and of the issue of debentures requiring registration under the provisions of the Companies Ordinance 1921 and of this Ordinance but registration of any such mortgage or charge may be effected on the application of any person interested therein.

Where the registration is effected on the application of some person interested other than the Company or Society that person shall be entitled to recover from the Company or Society the amount of any fees properly paid by him to the Registrar on registration.

(5) The Registrar shall, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, enter a memorandum of satisfaction on the Register free of charge and shall, if required, furnish a copy of such memorandum on payment of a fee of P.T. 5.

(6) Any person may inspect the Register of Mortgages and Charges kept by the Registrar of Companies or of Cooperative Societies under Section 68 of the Companies Ordinance and may obtain copies or extracts therefrom or copies or extracts of documents filed with the Registrar in accordance with the provisions of this Section upon payment of the fees specified in Section 88 of the said Ordinance.

(7) The provisions of this Section shall apply to mortgages and charges created by a foreign Company and secured upon property in Palestine.

Relief against
non-registration.

11. (1) A President of a District Court, on being satisfied that the omission to register a mortgage or charge within the period specified in Section 68 of the Companies Ordinance 1921, or that the omission or misstatement of any particular with respect to any such mortgage or charge was accidental or due to inadvertence or to some other sufficient cause and is not of a nature to prejudice the position of creditors or shareholders

of the Company or Society, or that on other grounds it is just and equitable to grant relief, may, on the application of the Company or Society or any person interested and on such terms and conditions as seem to the President just and expedient, order that the time for registration be extended or, as the case may be, that the omission or misstatement be rectified.

(2) The power to grant relief under this Section may be exercised even though the period fixed for registration expired before the coming into force of this Ordinance.

12. Where debentures are secured by a Trust Deed the rights of the debenture holders shall not be enforceable save by action brought in the Court of the District where the Company or Society has its Registered Office. In any such action the Court or the President thereof shall have the like power to grant relief by way of appointment of a receiver, order for sale and distribution of the assets or otherwise as are possessed by an English Court in the like case.

Enforcement of floating charge.

13. When debentures are secured by a floating charge over the immovable property of the Company the trustees for the debenture holders, if any have been appointed, and failing them any debenture holder may at any time apply to the District Court or to any Judge thereof for an order to restrain the Director of Lands from permitting any further mortgage or sale to be entered upon the Register in respect of any land then registered in the name of the Company save under order of the Court and the Court or judge may, upon being satisfied that the security of the debenture holders is imperilled or that it is otherwise just and convenient, make such order accordingly upon such conditions as to costs or otherwise as may be deemed fit.

Order of Court to secure floating charge.

14. The provisions of Sections 53, 54, 55 and 56 of the Companies Ordinance 1921 and any amendments thereof shall apply to any prospectus issued to the public inviting subscriptions to debentures issued by a Company or Cooperative Society.

Application of Sections of Companies Ordinance 1921.

15. Where a Company or Society or the Director or Manager thereof fails to do any act or thing required, or does anything forbidden by this Ordinance he shall be liable to the penalties prescribed in Section 84 of the Companies Ordinance 1921.

Penalties for default.

16. Every debenture issued by a Company or Society otherwise than in accordance with the provisions of this Ordinance shall be void as against the Company or Society and the Directors or Managers or Committee thereof at the time of

Debentures issued contrary to the Ordinance to be void.

issue shall be personally liable jointly and severally for the amount secured.

Repeals.

17. Sub-sections (2), (3), (4) and (5), of Section 65 and Section 67 of the Companies Ordinance 1921 are hereby repealed.

HERBERT SAMUEL

High Commissioner.

December 31st, 1924.